

CHAPTER 10 RULE MAKING

[Prior to 3/20/91, Corrections Department[291]]

201—10.1(17A,904) Commencement of rule making. The department shall give notice of its intention to adopt, amend or repeal a rule by publishing the text of the proposed change, or a summary of the issues and subject matter to be considered and the time, place and manner in which interested persons may comment upon the proposal, in the Iowa Administrative Bulletin. The notification shall state either the text of the proposed rule or the subject matter of the proposed rule, a summary of changes from the existing rule, if any, and the location and telephone number where people may obtain the actual text. The notice shall also include the name and address of a person to whom interested persons may present written views and arguments, and the deadline by which these submissions may be submitted.

201—10.2(17A) Exemption from rule making. The department finds that policies, procedures and statements which relate only to inmates of a penal institution shall be exempted from the rule-making process as provided in Iowa Code section 17A.2(7) “k.”

Policies and procedures governing activities of incarcerated inmates are located in the departmental manual and in institutional manuals.

201—10.3(17A) Copies of proposed rules. A trade or occupational association, which has registered its name and address with the department of corrections, may receive, by mail, copies of proposed rules. Registration of the association’s name and address with the department is accomplished by written notification to the Director of Corrections, Capitol Annex, 523 East 12th Street, Des Moines, Iowa 50319. In the written notification, the association must designate the type of proposed rules and the number of copies of each rule it wishes to receive. A charge will be assessed pursuant to IAC 201—5.3(7).

This rule does not prevent an association which has registered with the department in accordance with this rule from changing its designation of types of proposed rules or number of copies of proposed rules which the association desires to receive. If an association makes such change designation, it must do so by written notification to the director of corrections.

This rule is intended to implement Iowa Code sections 17A.4 and 22.11.

201—10.4(17A) Oral presentations. When requested by the persons or groups enumerated in Iowa Code section 17A.4(1) “b,” an opportunity for an oral presentation shall be scheduled. The request must be received at the department office within 20 days of the publication of the notice of intended action and must identify the proposed rule subject to the request by ARC number and by the specific citation to the proposed rule upon which presentations are to be made. A separate request shall be made for proposed rule(s) under each notice.

10.4(1) Notice. When so requested under the provisions of this rule or in the director’s discretion, the director shall schedule an opportunity for oral presentations by publishing a notice of the opportunity in the Iowa Administrative Bulletin, which shall refer to the ARC number and citation of the proposed rule, and which shall give the public not less than 20 days’ notice of the date, time and place of the meeting. Additional notice shall be mailed to all persons who have requested the opportunity for an oral presentation and to the news media when requested.

10.4(2) Conduct of meetings. The director or designee shall serve as the presiding officer at the meetings. At the commencement of the meeting, any person wishing to make an oral presentation shall advise the presiding officer of his or her name, address and affiliation.

a. At the commencement of the meeting the presiding officer shall give a brief synopsis of the proposed rule, a statement of the statutory authority and the reasons for the proposed rule. The presiding officer may limit individual presentations to five minutes each.

b. The presiding officer may open the floor to questions or general discussion to facilitate the exchange of information, but is not required to do so.

- c. Persons who disrupt or obstruct the meeting either by their behavior or by the use of a camera or recording device beyond what is reasonably required to operate the camera or recording device shall be requested to cease such behavior or to cease using the camera or device. The presiding officer shall exclude any person who fails to comply with the request.
- d. The presiding officer shall, when practical, receive all relevant physical and documentary evidence presented by witnesses. All such evidence becomes the property of the department.
- e. A record shall be prepared consisting of the minutes or verbatim record, and all evidence submitted. The presiding officer shall then prepare a summary of the content of all comments received at the meeting. The summary, and when practical the entire record, shall be forwarded to the director for further consideration.

201—10.5(17A) Conferences or consultation. In addition to the required rule-making procedures, the director or designee may obtain viewpoints or advice concerning proposed rule making through informal conferences or consultation as the director or designee may deem desirable.

201—10.6(17A,904) Adoption. At a regularly scheduled meeting held not less than 35 days after the publication of notice, the board shall meet to consider final action on the proposed rule. Once the proposed rule has been adopted by the board in final form, it shall be made effective pursuant to the provisions of Iowa Code section 17A.5.

201—10.7(17A) Statement of reasons. If so requested by any interested person, pursuant to the provisions of Iowa Code section 17A.4(1) and upon adoption of any proposed rule, the director shall prepare a statement of principal reasons for and against the proposed rule, containing the reasons for overruling considerations urged against the rule.

201—10.8(17A) Petition for rule making. A petition for rule making shall be filed in the director’s office, Department of Corrections, Capitol Annex, 523 East 12th Street, Des Moines, Iowa 50319. The petition shall either be mailed certified, return receipt requested, or may be delivered in person. An additional copy may be provided if the petitioner wishes to retain a filed stamped copy of the petition. The petition may be either typewritten or legibly printed in ink and must substantially conform to the following form:

DEPARTMENT OF CORRECTIONS
CAPITOL ANNEX
523 EAST 12th STREET
DES MOINES, IOWA 50319

Petition by _____ (Name)	Petition
to (Amend, Adopt, or Repeal)	For Rule making
Rules Relating to (state subject matter)	

- (Petition must state in separate numbered paragraphs)
- 1. Petitioner’s name, address and telephone number.
 - 2. The nature of petitioner’s interest in the matter.
 - 3. The text or substance of any requested rule adoption, amendment or repeal, including the text and citation for any current rule in effect.
 - 4. The reasons for seeking the requested action, including any statute, rule, data, evidence or arguments which are relevant to the request. Copies of any statute, rule, evidence, etc., shall be attached to the petition.

(Petitioner’s Signature)

10.8(1) *Procedure after petition is filed.* Upon filing of the petition, the director or designee shall inspect the petition to ensure substantial compliance with the recommended form. If the petition does not contain the text or substance of the proposed amendment or any reasons for the proposed amendment or fails to include copies of any cited statute, rule or evidence, the petition may be rejected and returned to the petitioner along with the reasons for the rejection. Petitioner may then correct the reasons for the rejection and refile the petition. A petition in substantial compliance with the recommended form shall be filed and stamped.

10.8(2) *Department action.* Within 60 days of the filing of a petition, the director shall grant the petition and commence rule making, or deny the petition and notify the petitioner in writing of the grounds for the denial.

These rules are intended to implement Iowa Code sections 17A.3, 17A.4, 17A.6, 17A.7 and 904.108.

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